

Newburyport Conservation Commission

June 28, 2011
City Hall Auditorium
Minutes

1. Call to Order

A meeting of the Newburyport Conservation Commission was called to order by Chairman Joe Teixeira at 6:30 p.m.

2. Roll Call

In attendance were members Joe Teixeira, Paul Healy, Steve Moore and Mary Casey and Planning Director Andy Port.

3. Minutes

Paul Healy moved to approve the minutes of the June 7, 2011 meeting. Steve Moore seconded the motion. The motion was unanimously approved.

4. General Business

New Ordinance and Regulations

The meeting to review the draft ordinance must be rescheduled. Andy Port will send a list of possible dates out by email.

5. Certificates of Compliance, Requests for Determinations, Requests for Minor Modifications

Newburyport Water Works, c/o Mr. Paul Colby

Bartlett Spring Pond, Spring Pond

Request for Extension to Order of Conditions

DEP File #051-0669

The Order of Conditions expired on March 29, 2011. The applicant had submitted a letter dated January 19, 2011 requesting an extension. Under the Permit Extension Act, an extension to March 29, 2013 would be automatically issued. The Commission prefers to grant extensions through normal DEP procedures. Paul Healy moved to extend the Order of Conditions to March 29, 2014. Mary Casey seconded the motion. The motion was unanimously approved.

City of Newburyport – Beach Management Committee

Northern Boulevard and Reservation Terrace

Minor Modification – Beach Walkovers and Public Access at 53rd, 55th, 57th and 61st Streets

DEP File #051-0829

Andy Port spoke on behalf of the beach management committee, which developed a plan to protect the dunes by allowing for public access to the beach at 53rd, 55th, 57th and 61st Streets. Access areas were closed due to safety concerns after erosion created steep slopes. The Committee is proposing that a raised boardwalk with an aluminum gangway for 55th Street be installed. The DPS, Planning Office and Harbormaster would be responsible for pulling up the gangway with a winch for the winter and during storms. At 53rd, 57th and 61st Streets, a sand ramp with a “Mobi Matt” would be installed over the coir bags. The mats would be replaced by walkovers as funding becomes available. Fencing will be installed at all access areas to direct

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pedestrians to the ramps and discourage them from walking over the dunes and dune grass will be planted. Mary Casey asked about access at Grant Street. Andy Port said that if there is extra sand it would be placed there by otherwise nothing is planned for that area, which is being used for access. Mary Casey commented the Commission must act to protect the beach, balancing the public's desire access to the beach with the protection of homes. Steve Moore said some, but not all, of the coir bags have had additional fabric placed over them. Tim Tracy said he had planned to do this as well but was not able to accomplish the work by March 31. He intends to install the additional material in the fall. Joe Teixeira said adding sand over the coir bags is a part of their maintenance and an Order of Conditions for the coir bags has not yet been issued. Andy Port responded that the sand would be used to create a grade that would allow public access to the beach and is not a part of the maintenance of the coir bags. Steve Moore asked if DEP has given permission for the work, which constitutes construction in the piping plover habitat. Andy Port said no vehicles would be allowed on the beach and the work would be done from the top of the dunes. The sand is to be manually moved with hand tools. Steve Moore said he is concerned the gangway would not be taken up during storms and might become loose and damage the coir bags. Andy Port said he is confident the DPS will remove the gangway during storms. Paul Healy asked about the anchor at the end of the gangway. Andy Port will contact the contractor about adding either surface area or weight to the anchor. Joe Teixeira allowed comments from the public. Tim Tracy asked if the posts for the fence would impale the coir bags. He suggested that construction fencing be used along the wooden fencing. Kelsey Buck, 53rd Street, said 30 homeowners have contributed funds for sand to allow access at 53rd Street. Patricia Frye said she would like the rights of way to be opened. She asked about the delay in issuing the permit. Joe Teixeira explained the applicant is responsible for submitting information to Natural Heritage and the Commission may not close the public hearing until after comments from the agency have been received. Steve Moore said Commission would be able to approve the minor modification for all but 53rd Street. Fortification of the existing coir bags would not be allowed until the Notice of Intent for 53rd Street has been completed. The Notice has been outstanding for several months. Mary Casey explained that the Notice of Intent for 53rd Street is not yet complete and additional construction is not allowed while an application is open. The addition of another layer of fabric would be considered construction. The work at 53rd Street will not be allowed until comments from Natural Heritage have been received and the Order of Conditions has been issued. Steve Moore said the access would not be closed all summer. It is expected the Order of Conditions would be issued at the July 19 meeting, after comments from Natural Heritage have been received. Tim Tracy explained that work had been delayed by the weather. The Notice of Intent is for the entire length of the coir bags. The item has been on the agenda for several months. Natural Heritage has requested additional information on the application on April 14. The applicant did not submit the material until June 7. Natural Heritage has 30 days in which to respond and a response is expected by July 7. Steve Moore moved to approve the minor modification for beach access for 61 55th, 57th and 61st Streets as shown on the plans. Mary Casey seconded the motion. The motion was unanimously approved.

Steve Moore moved to recess the meeting and open the public hearings. Mary Casey seconded the motion. The motion was unanimously approved.

6. Public Hearings

Thomas Litle

6 Bayne Lane

Notice of Intent

DEP File #051-0868

Verne Fisher appeared for the applicant. The plans were revised after the applicant decided to rotate the orientation of pool 90 degrees. The size of the patio was increased 282 square feet. There will be one-half inches spaces between the patio stones to allow for infiltration. It was determined that the roots of tree would not be impacted by the change. Most of the pool is above grade due the topography of the site. Mr. Fisher initialed and dated the revised plan. Steve Moore moved to close the public hearing. Mary Casey seconded the motion. The motion was unanimously approved.

Bud Jerrett

17 Graf Road

Notice of Intent

DEP File #051-0864

The applicant requested an extension until after the next Planning Board meeting. Paul Healy moved to continue the public hearing to July 19. Steve Moore seconded the motion. The motion was unanimously approved.

Michael Arcidi, Port Associates Limited Partnership

4-6 Hale Street

Notice of Intent

DEP File #051-0867

The applicant requested an extension. Steve Moore moved to continue the public hearing to July 5. Paul Healy seconded the motion. The motion was unanimously approved.

Marc Emmons

9 Doe Run Drive

Notice of Intent

DEP File #051-0869

The applicant requested an extension. Steve Moore moved to continue the public hearing to July 5. Joe Teixeira seconded the motion. The motion was unanimously approved.

Mary Casey moved to close the public hearings. Steve Moore seconded the motion. The motion was unanimously approved.

7. Enforcement

23 Phillips Drive

Tom Hughes appeared for the applicant and requested informal comments from Commission members before he proceeds with the preparation of the Notice of Intent. The applicant installed a wall and fill along a driveway without a permit. Mr. Hughes is proposing to install low-growing native shrubs along the driveway and two to three native trees and larger shrubs on the wetland side of the wall. The non-permitted work would be mitigated by a wetland restoration

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that functions as a rain garden. Water from a foundation drain would flow into a swale and then into the wetlands.

Tim Tracy

28 53rd Street and Multiple Lots

Notice of Intent

DEP File #051-0860

An extension to July 19 was issued at the June 7 meeting. Mr. Tracy said there have not been changes made to the Notice of Intent. The extra layer of fabric over the coir bags is a part of their regular annual maintenance. The maintenance would be allowed for three years after the permit has been issued. The applicant is waiting for comments from Natural Heritage. Andy Port will contact Natural Heritage about its response. Steve Moore said Dr. Hemani has installed sand over the coir bags with plywood at their base to hold the sand. The plywood would not be permitted, as it is a solid structure. This will be handled through an informal discussion.

8. Other Business

Crow Lane Landfill

Joe Teixeira recused himself from the discussion. Andy Port said the restoration and replication plan would need to be approved at a later date. The Commission previously approved the location of the restoration/replication area.

Andy Port said volunteers are being sought to monitor the piping plover habitat.

Joe Teixeira said currently mowing of the Cooper North Pasture is allowed after July 15. Because it is a bobolink nesting area, it would be preferable to have the mowing begin after August 1. The grass, however, becomes less valuable as it gets drier. Steve Moore said the arrangement should not be changed for the current year because it has been expected that mowing is allowed to take place at the earlier date. A letter will be sent in the fall indicating that the date will be changed to August 1 for next year.

9. Orders of Conditions

Thomas Little

6 Bayne Lane

Notice of Intent

DEP File #051-0868

Paul Healy moved to issue an Order of Conditions with the special conditions that 1) an as-built plan is provided, 2) the applicant must cease work and return to the Commission if tree roots are found when digging for the pool is taking place and 3) discharge from the pool must be prevented from entering into the resource area. Mary Casey seconded the motion. The motion was unanimously approved.

10. Adjournment

Steve Moore moved to adjourn the meeting at 8:47 p.m. Mary Casey seconded the motion. The motion was unanimously approved.